



Town of Clayton
Regular Town Council Meeting Minutes
Monday, March 18, 2019 @ 6:00 PM
Council Chambers

COUNCIL PRESENT:

Mayor McLeod
Mayor Pro Tem Grannis
Council Member Thompson
Council Member Bunn

STAFF PRESENT:

Adam Lindsay, Town Manager
Nancy Medlin, Deputy Town Manager
Katherine Ross, Town Attorney
Kimberly Moffett, Town Clerk
Samantha Wullenwaber, Planning Director
Haley Hogg, Planner
Scott Barnard, Parks & Recreation Director
Lee Barbee, Fire Chief
Dave DeYoung, Economic Development
Director
Stacy Beard, Public Information Officer

COUNCIL ABSENT:

Council Member Satterfield
Council Member Holder

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:01 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 ADJUSTMENT OF THE AGENDA

3 CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a) Warrant Acceptances
- Riverwood Ranch Townhomes Subdivision
 - Riverwood Villas II, Phase 1 & 2
 - Riverwood Villas II, Phase 3
- b) Direct Clerk to Certify Sufficiency - 2019-29-ANX - The Village @ Little Creek Subdivision Annexation
- c) DRAFT Minutes
- March 4, 2019 - Regular Session
- d) Proclamation - Arbor Day - March 22, 2019

ACTION: Adoption of Consent Agenda as Presented

Motion: Council Member Thompson

Second: Mayor Pro Tem Grannis

Vote: Unanimous

4 ADMINISTRATIVE ITEMS

- a) 2019 Local Government Agencies Record and Retention Disposition Schedule
Presenter: Kimberly Moffett, Town Clerk

Ms. Moffett advised of updates to the North Carolina Local Government Record Retention Schedule. She stated these updates would be incorporated into our current Municipal Schedule and further advised that the Municipal Schedule would be fully updated in January of 2020 and moving forward all schedules would update on a 5 year rolling cycle.

ACTION: Adoption of Resolution #2019-06

Motion: Council Member Thompson

Second: Mayor Pro Tem Grannis

Vote: Unanimous

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a) Parks & Recreation Master Plan / Bond Projects
Presenters: Scott Barnard, P&R Director and Sara Burroughs, Sage Design

Mr. Barnard presented and provided summary of process. He shared details about those who provided feedback. All four parks (Community, Legend, Municipal, East Clayton) and Horne Square were included in the survey. He spoke about the strengths and challenges of each location. He spoke about high demand items to include Splash Pads, Multi-Purpose Fields, and Trails, Dog Park on the other side of town, Fitness Stations, Basketball, and Interactive Water Features.

Mayor Pro Tem Grannis asked what Mr. Barnard would like the next step to be. Mr. Barnard stated he would like to meet again with Administration as well as having an understanding of what Council would feel comfortable with moving forward on a bond referendum.

Council Member Bunn asked what Mr. Barnard believed would be his choice for a number one project. Mr. Barnard stated that he was not comfortable stating what that project might be.

Mayor McLeod stated he was happy to hear that Municipal Park ranked high and citizens still have an appreciation for it. He thanked Mr. Barnard and Sage Design for all the hard work.

- b) **Harmony Playground Update**
Presenter: Dean Penny, Clayton Community Recreational Foundation

Mr. Penny provided an update on the playground. The mission of this playground is to create a space where children and adults of all abilities can play and learn together. The construction process is scheduled to begin in August 2019. There is a scheduled Fall Gala to be held in October 2019. This project is currently seeking sponsors and searching for grants.

6 PUBLIC HEARINGS

- a) **Abandonment of Portion of Horne Street**

Mr. DeYoung presented and requested that Public Hearing be continued to the April 1, 2019 meeting. He also provided details about the community meeting that would be held on March 21 to discuss this project. He further stated that the Site Plan would be scheduled for the April 22, 2019 Planning Board meeting.

Mr. Tew requested to speak in order to gather some information. Council stated the hearing would be set for April 1, 2019 and they preferred to hear that information at that time. Mr. Tew stated he was concerned about requests for information. Mayor McLeod thanked him for his input and stated his concerns were heard and invited him to attend the April 1, 2019 hearing.

ACTION: Continue Public Hearing to April 1, 2019

Motion: Council Member Thompson
Second: Council Member Bunn
Vote: Unanimous

- b) **2018-240-SD - Highgate Subdivision - Major Modification (Quasi-Judicial)**
Presenter: Planning Department

Attorney Ross provided detail regarding the process for a quasi-judicial proceeding including the types of testimony that could be considered. Anyone wishing to offer testimony must do so under oath. The oath was administered via affirmation by the town clerk.

Mr. Wullenwaber provided details regarding the request. This is a major modification requesting the removal of the street stub connection into adjacent Creech property. The easement will still be there, it will be used as a utility easement as well as a greenway connection. It is proposed to remove the road connection. Highgate Subdivision is approximately 99 acres and is 229 single-family residential lots, this was approved a number of years ago. There are 3 other access points which are appropriate for the number of lots in this subdivision.

This project is consistent with Comprehensive Plan, consistent with Surrounding Land Uses, and the applicant has addressed Findings of Fact. There were no questions for staff.

Mr. Jerry Dalton, applicant, presented and reiterated what Ms. Wullenwaber previously stated. He requested to have the street removed based on the access points. He stated he would be happy to answer any questions.

With no one further wishing to speak, the hearing was closed at 6:46 p.m.

ACTION: Approval 2018-240-SD

Motion: Mayor Pro Tem Grannis
Second: Council Member Thompson
Vote: Unanimous

- c) 2018-92-RZ - Creech Tract - Rezoning
Presenter: Planning Department

Ms. Hogg presented and stated request for rezoning from Planned Development Mixed Use Residential-10. This property is right under 39 acres in size and located on Shot well Road, south of Highgate Subdivision. The property was originally zoned PD-MU in 2006 as part of a master plan which also included Highgate Subdivision. On that master plan it was designated as multi-family future development, that master plan has expired and the applicant now wants to rezone this to a Residential district.

This project is consistent with Comprehensive Plan, consistent with Surrounding Land Uses, and the applicant has addressed the approval criteria.

Staff and the Planning Board both recommend approval.

This was noted as a public hearing.

Mr. Dalton, applicant, was present and he would be happy to answer any questions.

With there being nothing further, the item was turned over to Council for their deliberation.

ACTION: Adoption of Ordinance #2019-03-03

Motion: Council Member Bunn
Second: Council Member Thompson
Vote: Unanimous

- d) 2018-91-SUP - Creech Tract - Special Use Permit (Quasi-Judicial)
Presenter: Planning Department

Attorney Ross provided detail regarding the process for a quasi-judicial proceeding. The oath was administered via affirmation by the town clerk.

Ms. Hogg stated request is for a Special Use Permit to allow the subject property townhome development. The property is just under 40 acres in size and is located off of Shotwell Road and Old Hwy US 70, it is currently vacant.

This project is consistent with Comprehensive Plan, consistent with Surrounding Land Uses, and the applicant has addressed the Findings of Fact. An associated Preliminary Plat is running concurrently with this application.

If approved, staff recommends conditions of approval as included in staff report. Mayor Pro Tem Grannis confirmed that staff was in agreement and that all Findings of Fact had been met.

Mr. Dalton, applicant, was present and stated that he had other experts available to address any concerns or answer any questions regarding this request.

Mayor Pro Tem Grannis asked that the experts respond to the first Finding of Fact. Mr. Verity with Moffett Nickel in Raleigh, he stated his office was contacted by Mr. Dalton in 2017 to perform an upgraded signal traffic analysis for basically two subdivisions, Highgate and Creech. The traffic study was prepared in addition to another traffic study that was prepared by Morton and Morton in 2015. As part of that study the recommendation indicated that existing road conditions were operating on a level "F" which indicates there is a lot of delay. The traffic study was updated in 2017, there were new traffic counts that were recorded in the middle of the week which indicated the major intersections were still operating on a level "F". It is projected that in 2019 there would be continued growth of 3% and the conditions would still be poor.

Recommendation was to get joint funding with DOT and maybe the town and both developers to make improvements to include traffic signal installations that would significantly help the delays at Covered Bridge Road and Shotwell Road and Covered Bridge. With the installation of the two traffic signals it would bring the levels back to existing conditions, which is still an F, but would be the most appropriate plan.

Mayor Pro Tem Grannis questioned if NCDOT were the lead agency regarding traffic signals on state roads, which all of these roads are, and he believed that somewhere along the way that developer responsibility became a part of that. Mr. Grannis asked Mr. Daughtry if that was fair to say, Mr. Daughtry stated it was.

Mr. Grannis asked why the municipality is being asked to participate in funding especially on an NCDOT street. Mr. Daughtry stated typically improvements of this nature can be funded in a systematic manner where you have joint use.

There would be benefits to DOT, to the Town, to the developer and surrounding residents. He stated joint funding in this instance would be advised.

Mayor Pro Tem Grannis asked what alternatives would be if municipality did not wish to participate. Mr. Daughtry stated that NCDOT has funding sources but they were spread very thin. The funding is prioritized and based on a number of factors, congestion being one of those.

Mayor Pro Tem Grannis voiced his concerns about the cost and stated these amounts are not budgeted for. He had concerns about these intersections, however, he does not know if the municipality could afford it. He asked about what the cost per traffic signal would be, Mr. Daughtry stated it is approximately \$100K per intersection.

Mayor McLeod asked about factors, other than congestion that go into an "F" rating. Mr. Daughtry stated it is mainly based on congestion. Mayor McLeod voiced concerns how this project will get the required attention from NCDOT. It was stated there was no guarantee from NCDOT with regard to funding.

Staff provided details regarding the preliminary plat. Ms. Hogg stated this is a request for preliminary plat approval to develop 189 townhomes. Project is located on Shotwell Road and Old US Highway 70 and is currently vacant. Some of the homes will be front loaded and some will be alley loaded. The proposed density is 4.86 per acre and with 4 access points, 2 of the access points would be off of Old US Highway 70, 1 one be a full access and the other would be a right-in only. There would also be a greenway connection into Highgate Subdivision. There was a proposal for a full house to serve as an amenity to the residents, which will be submitted as a site plan and will go through TRC separately from this application.

A traffic study was completed in 2017, the layout has changed since that study, but the overall unit count has decreased. There is a requirement to provide turn lanes at all entrances as well as a requirement to provide signals at Shotwell and Covered Bridge and Covered Bridge and N. O'Neil Street.

Ms. Wullenwaber stated that staff sat down with NCDOT and stated that developers whose projects were involved in this area and that TIA indicates traffic signal conditions, would need to contribute to traffic improvements.

Mayor Pro Tem Grannis asked if the developer did not participate what would happen. Ms. Wullenwaber stated these conditions would be part of the approval. She further stated it was her opinion that the Town of Clayton would be not responsible for these costs. Ms. Ross stated that legally it could not be an economic development incentive.

Haley Hogg discussed the Right-In Only design. She stated this was not included in the original application. The applicant would provide a turnaround area for anyone trying to leave the development. Condition is included in staff

report that would require median be extended along the entire length of the turn lane.

This project is consistent with Comprehensive Plan, consistent with Surrounding Land Uses, and the applicant has addressed Findings of Fact.

If approved, staff recommends conditions of approval be placed upon the preliminary plat application. Conditions are included in staff report.

Council Member Bunn asked about the driveways and street parking. Ms. Hogg stated they do meet the requirement for the required number of parking spaces. Visitor parking is not required but has been included. It was also discussed about the amenity center and mail kiosks.

Mayor McLeod confirmed that they are building less than they could have. Mayor McLeod wanted to confirm that NCDOT was okay with the Right-In Only. Ms. Wullenwaber stated NCDOT worked very closely with the applicant and staff on this design.

No other questions for staff.

Mr. Dalton stated he had numerous conversations with NCDOT regarding the Right-In and feels NCOT was very comfortable with it. Mr. Dalton stated he is frustrated with the intersection and that it had been failing since 2010. He stated he was looking forward to meeting with other developers and NCDOT regarding traffic signals and disappointed that meeting hasn't taken place. He further stated that he understood a mediator would be sitting down with all involved parties. He stated he believed the applicant had done everything asked of them to get this project approved and the projects meets both the UDO and the 2040 Comprehensive Plan.

Mr. Mark. Jones was present and stated he is a certified real estate appraiser with 22 years' experience. He provided additional details about his credentials.

He addressed the Finding of Facts and stated he took a field trip and looked at many areas going from Shotwell Road from Highway 70 up to Old Garner Road on 70 and continued up towards Leeville, came back towards Covered Bridge where it joins North O'Neil Street, came back North O'Neil into town as well as looking at old 70 towards Pine Hollow. There was discussion on how this area has always been rural and now subdivisions are developing. He does not believe there would any detrimental impact on this area or damage the surrounding uses or for future potential uses

Mayor Pro Tem Grannis questioned about the Neighborhood Meetings and their concerns. He asked that Mr. Jones address those concerns and what has been done to mitigate concerns. Mr. Jones stated Jonathan Barnes would be able to address those concerns.

Jonathan Barnes stated the concern from the meeting was regarding landscape buffers between Creech Tract and the existing subdivision on Highway 70. He stated that property owners were notified that a buffer would be provided. Another concern was the right of way. Mr. Barnes stated that on the Creech Tract there is a right of way dedication and reservation and that NCDOT had asked for proposed turn lanes. Mr. Barnes stated he was not aware of any other right of way issues. Mr. Dalton stated that they had no plans for any property they had no control over. Mr. Dalton shared concerns regarding right of way on another's property and stated they would be willing to put up bond. He addressed concern regarding condition of them having to pay a fee in lieu for crossing another's property. He stated again they are not trying nor do they want to develop another person's property, which is explained in Condition #9.

Mayor Pro Tem Grannis read concerns from a neighbor. Mayor Pro Tem Grannis stated he assumed that applicant had complied with all Findings of Fact. Mr. Dalton stated that he felt they had met all Findings of Fact.

Ms. Hogg stated the application went to TRC and met all requirements.

Mayor Pro Tem Grannis stated he had compassion for folks in the area but felt that all requirements had been made.

Mayor McLeod verified that when street lights were addressed it was referring to signal lights.

Mr. Phillips, a citizen, addressed and stated his concern was his property would become a playground. He had concerns about two stub outs and requested that a buffer surround his property. He a commitment was made back in the 80's that his property would not be taken. He was hoping for an equitable exchange of property on the back of the property for what would be taken on the front part of the property. He wants to ensure that folks don't have open access to his property. He addressed his concerns about value of his property should land be taken from him.

With there being nothing further, the hearings were closed and turned over to council for their deliberation.

Council Member Thompson asked about the buffer around Mr. Phillips property. Ms. Wullenwaber pointed out where the buffer would be located around the property line.

ACTION: Approval of 2018-91-SUP with Conditions as Listed in Staff Report

Motion: Council Member Thompson
Second: Mayor Pro Tem Grannis
Vote: Unanimous

- e) 2018-90-SD - Creech Tract - Preliminary Plat (Quasi-Judicial)
Presenter: Planning Department

Mayor Pro Tem Grannis asked about wastewater allocation numbers. Mr. Lindsay stated this wastewater request had been previously allocated and further stated he would confirm numbers with the Town Engineer.

ACTION: Approval of 2018-90-SD with Conditions as Listed in Staff Report

Motion: Council Member Thompson
Second: Mayor Pro Tem Grannis
Vote: Unanimous

ACTION: Adoption of Resolution #2019-07 (Wastewater Allocation)

Motion: Mayor Pro Tem Grannis
Second: Council Member Thompson
Vote: Unanimous

- f) 2018-231-PDD - Barbour Tract - Rezoning
Presenter: Planning Department

Ms. Wullenwaber asked for continuation.

ACTION: Continue Public Hearing to April 1, 2019

Motion: Council Member Thompson
Second: Council Member Bunn
Vote: Unanimous

- g) 2018-233-SD - Barbour Tract - Master Plan (Quasi-Judicial)
Presenter: Planning Department

ACTION: Continue Public Hearing to April 1, 2019

Motion: Council Member Thompson
Second: Council Member Bunn
Vote: Unanimous

- h) 2018-250-SD - Walk @ East Village - Major Modification (Quasi-Judicial)
Presenter: Planning Department

Ms. Ross reminded this was a Quasi-Judicial. The town clerk issued the oath via affirmation.

Ms. Hogg stated this is a modification to a previously approved Master Plan, Phases 2-4 only. The location is off of Front Street

The original plan was approved with alley loaded design units and shared courtyards, 300 total units and 5.71 units per acres. The unit number has changed to 265 and 200 of those units would be in Phases 2, 3, and 4. The density has decreased to 5.28 units per acre. They are no longer doing the alley-loaded units or the courtyard, they are doing the front loaded units. The

same three access points are being requested as well as the required open space. They were not required to update the traffic study because the unit number has decreased.

Ms. Hogg presented the proposed Dimensional Standards, all are consistent with Phase 1 setbacks that were approved in 2015. Staff recommends 10' front setback to provide more space for driveway parking. The impervious surface does vary by lot size, none of the lots will exceed 70% impervious.

There is a waiver request, the staff is comfortable with the request but requests a 10' minimum corner setback from all driveway to ensure a safe distance is met from the intersection to the driveway.

This project is consistent with Comprehensive Plan, consistent with Surrounding Land Uses, and the applicant has addressed the Findings of Fact. If approved, the conditions will be placed on the preliminary plat.

Council Member Bunn asked if the setback is happening anywhere in Phase 1. Ms. Hogg stated Phase 1 was alley loaded units and they are comfortable with the 5' setbacks. Council Member Bunn asked about storm water for downstream, Ms. Wullenwaber stated the storm water management is the same as the original approval, impervious count was going down, the impact is less, and they will have to get a permit from the county. Council Member Bunn asked if the previous run off issue had been taken care of. It was indicated that it was.

Mayor Pro Tem Grannis asked about parking on the street. Ms. Hogg stated it was allowed on one side. Ms. Hogg stated this went through TRC and it was approved by the fire marshal. There was concern about cars being parked on both sides and room for emergency vehicles. Ms. Wullenwaber stated that would be enforced by HOA. Ms. Wullenwaber stated that this was unique as it was already approved and they worked together to come up with a better solution for the remainder of the project.

With there being nothing further for staff, the applicant stepped forward.

Mr. Tom Holder, applicant, stated the request was in response to market feedback and homeowners. The developer agreed to lose 35 lots in order to make these improvements and changes. It was stated they worked hand in hand with staff. The homeowners are required to park in the garage.

Mayor Pro Tem Grannis asked that private street parking be addressed regarding one side street parking and how they would be handled by HOA. Mr. Holder stated that on site management would help police this issue. Mayor Pro Tem Grannis asked what would happen if folks did not respond to a violation notice. Mr. Holder stated that would be up to HOA who has ability to fine if necessary. He stated they have found that most of these folks like to park in their garage. Ms. Wullenwaber stated that though not perfect even if

there were a car parked on both sides, a garbage truck or emergency vehicle could get through.

Mayor Pro Tem Grannis asked about the 10' setback versus 5' as requested by applicant. Mr. Holder stated they would accept that.

With nothing further, the hearing was closed at 8:32 p.m. and turned over to council for their deliberation. Council Member Thompson stated he remembered when this project was first presented and the developer stated they would return if project needed to be tweaked.

ACTION: Approval of 2018-250-SD with Conditions as Listed in Staff Report

Motion: Council Member Thompson
Second: Council Member Bunn
Vote: Unanimous

7 OLD BUSINESS

8 NEW BUSINESS

- a) SB 179 / HB 278 Opposition
Presenter: Adam Lindsay, Town Manager

Mr. Lindsay provided details about this bill. The North Carolina League of Municipalities had requested that municipalities pass this resolution.

ACTION: Adoption of Resolution #2019-08

Motion: Council Member Bunn
Second: Council Member Thompson
Vote: Unanimous

- b) Recreational Trail Program Grant Pre-Application
Presenter: Scott Barnard, P&R Director

Mr. Barnard shared information about a possible three way partnership and also provided details regarding grant process. This is a Pre-application administered by NC State Parks, these funds can be used for trail design and construction. The Town's contribution would be the property. This would create a destination type trail. The formal application is due in August and they will return to council prior to that.

ACTION: Council Consensus

- c) US Fire Administration SAFER Grant Application
Presenter: Lee Barbee, Fire Chief

Fire Chief Barbee provided details about the SAFER grant and history. There are 15 positions in this grant. If approved we could convert some part time

staff to full time staff. If the grant is approved, we could decide then if we did not want to move forward.

ACTION: Council Consensus

9 STAFF REPORTS

a) Town Manager

- 2019 Town Council Retreat - Continued - April 1, 2019
- Update on Setting of Public Hearings

Mr. Lindsay stated he had provided a spreadsheet outlining all the CIP outlining Urgent / Needs / Wants. He will review priorities at a special meeting on April 1 at 3:00 p.m. to rank the projects.

Mr. Lindsay provided details about the new process and upcoming change to agenda. He felt that when we Set Public Hearings, this could be confusing to some. He stated we would longer set public hearings on agenda but just follow statue and advertise public hearings as required. Mayor McLeod agreed this was a good idea.

b) Town Attorney

c) Town Clerk

d) Other Staff

- Parks & Recreation Special Events & Marketing Position
Presenter: Scott Barnard, P&R Director

Mr. Barnard provided details regarding creating the Special Events & Marketing Position in Parks & Recreation Department. This position would take over many duties currently handled by both Economic Development and Planning. This position would also assist with marketing. There is no request for additional staffing dollars at this time as funding is available from other lagging positions. This position would be funded through available funding from a currently vacant position for the remainder of this year. Council Member Thompson asked if there was a job description and classification, Mr. Lindsay stated there was, however, it was not included in the agenda.

10 OTHER BUSINESS

a) Informal Discussion & Public Comment

b) Council Comments

Mayor Pro Tem Grannis asked about the status of PIO position. It was asked if this would this be handled in same fashion as discussed above or were we waiting for new budget. Mr. Lindsay stated there was discussion at the Retreat about the new role, a videographer and some cable funding would be used to

fund this position. We anticipate the videographer to be available no later than July 1.

11 CLOSED SESSION

- a) Closed Session Pursuant to NCGS 143-318.11.(a)(3)&(5)

Council went into Closed Session at 8:55 p.m.

ACTION: Motion to Go Into Closed Session

Motion: Council Member Thompson

Second: Mayor Pro Tem Grannis

Vote: Unanimous

12 ADJOURNMENT

- a) Adjourn Meeting

With there being nothing further, the meeting was adjourned at 9:42 p.m.

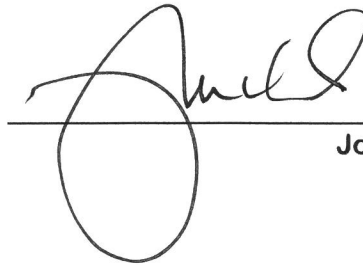
ACTION: Motion to Adjourn

Motion: Council Member Bunn

Second: Council Member Thompson

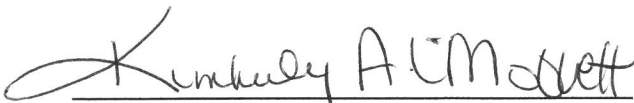
Vote: Unanimous

Duly adopted this the 15th day of April, 2019 while in regular session.



Jody L. McLeod
Mayor

ATTEST:



Kimberly A. Moffett, CMC, NCCMC
Town Clerk

